## REMARKS

Claims 1-4 and 9-34 are pending in this application. Of those claims, claims 12-30 have been withdrawn from consideration pursuant to the provisions of 37 C.F.R. §1.142(b). Claims 1-4, 9-11 and 31-34 stand rejected.

**Finality**

Initially, Applicant notes that the Examiner has incorrectly designated as final the present Office Action. In this regard, the Examiner is referred to M.P.E.P. § 706.07(a), which is reproduced in part below:

> Furthermore, a second or any subsequent action on the merits in any application ... will not be made final if it includes a rejection, on newly cited art ... of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art. (emphasis added)

In the Office Action dated March 4, 2005, claims 9-11 were indicated to be allowed. In the Amendment filed May 31, 2005 and the Supplemental Amendment filed June 10, 2005, claims 9-11 were not amended. However, in the present Office Action, claim 9 and 10 have been rejected under 35 U.S.C. § 102(b), and claim 11 has been rejected under 35 U.S.C. §103(a), based on newly cited art, Fukuchi et al. and Zhu. Thus, in spite of the fact that claim 1 was amended, it is improper under M.P.E.P. § 706.07(a) for the Examiner to designate the present Office Action as final. Applicant, therefore, respectfully requests withdrawal of the finality of the present Office Action.

**Claims 1 and 31 have been rejected under 35 U.S.C. §102(b) as being anticipated by Musk.**

In the statement of the rejection, the Examiner asserted that Musk discloses a light transmitting device utilizing indirect reflection identically corresponding to what is claimed. This rejection is respectfully traversed.

In response, Applicant submits that Musk does not disclose, among other things, a groove formed in a base part, and an optical element "being out of contact with said groove," as recited in independent claim 1.

The Examiner asserted that photodetector 4 of Musk (see Fig. 2) corresponds to the claimed base and has a groove (see the first full paragraph on page 4 of the Office Action). However, photodetector 4 does not have any groove. Photodetector 4 has entry face 4 that receives light from lens 3, but entry face 4 is not a groove. Entry face 41 is part of photodetector 4, and lens 3 is in contact with photodetector 4 so that light is directed to entry face 41. Accordingly, Musk does not disclose that a base has a groove, and an optical element (lens 3) is out of contact with the groove.

Therefore, Musk does not disclose an optical element including all the limitations recited in claim 1 within the meaning of 35 U.S.C. §102. Dependent claim 31 is also patentably distinguishable over Musk at least because the claim includes all the limitations recited in independent claim 1. Applicant respectfully solicits withdrawal of the rejection of claims 1 and 31 under 35 U.S.C. §102(b).

**Claims 1-3, 9, 10 and 31-33 have been rejected under 35 U.S.C. §102(b) as being anticipated by Fukuchi et al.**

In the statement of the rejection, the Examiner asserted that Fukuchi et al. discloses optical parts for connection identically corresponding to what is claimed. This rejection is respectfully traversed.

With respect to independent claim 1, Applicant submits that Fukuchi et al. does not disclose, among other things, "a predetermined reference optical axis being relatively fixed to said base part in said groove," and an optical element positioned with respect to said reference optical axis."

The Examiner asserted that an axis parallel to optical fiber 2 of Fukuchi et al. corresponds to the claimed reference optical axis being relatively fixed to the base part in the groove. However, Fukuchi et al. merely discloses arranging optical fiber 2 in a specific position. The reference does not disclose that a reference optical axis is relatively fixed to substrate 3 having V-shaped grooves 4, and optical fiber 2 is positioned with respect to the reference optical axis.

In contrast, a reference optical axis is relatively fixed to the base part in the claimed invention, which allows the optical element to be positioned with respect to the reference optical axis, as claimed.

Further, Fukuchi et al. does not disclose an optical element "being out of contact with said groove." The Examiner asserted that "an optical element (2)... being out of contact with said base part [(3)]" by citing Fig. 2 of Fukuchi et al. (see paragraph 4 of the Office Action). In response, Applicant submits that Fukuchi et al. does not explicitly or implicitly disclose each optical fiber 2 being out of contact with V-shaped groove 4 of aligning substrate 3. According to the English abstract of Fukuchi et al., V-shaped grooves 4 are provided to substrate 3 to arrange

each optical fiber 2 in a specified position. To arrange each optical fiber 2 in a specific position, it is necessary that optical fiber 2 be in contact with substrate 3.

Accordingly, Fukuchi et al. does not teach an optical element module including all the limitations recited in claim 1. The above arguments can be applied to independent claim 9 because the claim recites "a base part to which a plurality of reference optical axes are relative fixed," and "a plurality of optical element which are positioned with respect to said plurality of reference optical axes, respectively, being out of contact with said base part." Further, dependent claims 2, 3, 10 and 31-33 are also patentably distinguishable over Fukuchi et al. at least because they respectively include all the limitations recited in independent claims 1 and 9. Applicant, therefore, respectfully solicits withdrawal of the rejection of claims 1-3, 9, 10 and 31-33 under 35 U.S.C. §102(b) and favorable consideration thereof.

**Claim 1 has been rejected under 35 U.S.C. §102(e) as being anticipated by Séguin.**

In the statement of the rejection, the Examiner asserted that Séguin discloses bonding optical fibers to substrates identically corresponding to what is claimed. This rejection is respectfully traversed.

In response, Applicant submits that Séguin does not disclose, among other things, "a predetermined reference optical axis being relatively fixed to said base part in said groove," and an optical element positioned with respect to said reference optical axis," as recited in claim 1.

Fig. 4 of Séguin discloses positioning optical fiber 10 in cavity 30 of substrate 12. However, Séguin does not disclose that there is a reference optical axis, and optical fiber 10 is positioned with respect to the reference optical axis.

Applicant understands that Séguin states, "if adjustments are subsequently required in the optical assembly, the solder may be softened by heating and then re-solidified once adjustments have been made" (column 2, lines 34-36). However, Séguin does not mention that optical fiber 10 is adjusted to be positioned with respect to the reference optical axis. Furthermore, Fig. 3 of Séguin shows that optical fiber 10 is held above substrate 12 and bonded by means of solder drops 26, 28. In this case, both ends of optical fiber (i.e., input/output port of light) have no positional relations with the bonding positions. It is, therefore, impossible to assume a reference optical axis. Positioning of optical fiber 10 in Séguin does not mean positioning optical fiber 10 with respect to a reference optical axis.

Accordingly, Séguin does not teach an optical element module including all the limitations recited in claim 1. Applicant, therefore, respectfully solicits withdrawal of the rejection of claim 1 under 35 U.S.C. §102(e) and favorable consideration thereof.

**Claim 4 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Fukuchi et al. in view of the disclosed prior art; claim 11 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Fukuchi et al. in view of Zhu; and claim 34 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Fukuchi et al. in view of Rhee et al.**

In response, claims 4, 11 and 34 are patentably distinguishable over the cited references at least because they respectively include all the limitations recited in independent claims 1 and 9. It is noted that the disclosed prior art, Zhu and Rhee et al. do not teach, among other things, a reference optical axis, and an optical element positioned with respect to the reference optical axis,

as recited in claims 1 and 9. Accordingly, withdrawal of the rejection of claims 4, 11 and 34 under 35 U.S.C. §103(a) is respectfully solicited.

**Conclusion**

It should, therefore, be apparent that the imposed rejections have been overcome and that all pending claims are in condition for immediate allowance. Favorable consideration is, therefore, respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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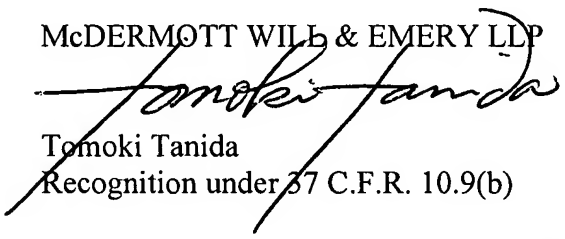

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